

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:16-CT-3250-F

JAMES R. KELLIHER #0830958,)
)
Plaintiff,)
)
v.)
)
JOHNNY HAWKINS, et al.,)
)
Defendants.)

ORDER

Plaintiff has initiated a civil action in this court and has filed a motion to proceed in the district court without prepaying fees and costs [D.E. 2]. Plaintiff has demonstrated the requisite inability to pay such fees and the motion to proceed in the district court without prepaying fees and costs is ALLOWED, pursuant to 28 U.S.C. § 1915(a). Notwithstanding allowance of the motion, pursuant to 28 U.S.C. § 1915(b)(1) and (2), incarcerated plaintiffs who have initiated civil actions are required to pay the entire **\$350.00** filing fee. This fee is to be collected in two stages. The prisoner immediately owes an initial partial filing fee, equal to 20 percent of the greater of (1) the average monthly deposits to the prisoner's trust fund account or (2) the account's average monthly balance for the six-month period immediately preceding the filing of the complaint. The remainder must be collected in monthly payments of 20 percent of the preceding month's income credited to the plaintiff's trust fund account.

In this case, the court has calculated the plaintiff's initial partial filing fee to be **\$31.00**. The appropriate officials at the correctional facility at which the plaintiff is incarcerated are hereby ORDERED to deduct the initial partial filing fee of **\$31.00** from the plaintiff's trust fund account. If the account has insufficient funds to pay the initial filing fee, all available funds must be deducted,

as well as all incoming deposits, until the initial filing fee of **\$31.00** is paid in full.

Once the initial filing fee is paid in full, the appropriate officials at the correctional facility at which the plaintiff is incarcerated shall deduct monthly payments of 20 percent of the preceding month's income credited to the plaintiff's trust fund account, until the remaining **\$319.00** of the filing fee is paid in full. Any money in the plaintiff's trust fund account may be deducted to pay that fee.

If an inmate has been ordered to make payments in more than one action or appeal in the federal courts, the total amount collected for all cases cannot exceed 20 percent of the inmate's preceding monthly income or trust account balance, as calculated under 28 U.S.C. § 1915(b)(1) & (2).

In accordance with the Court's general agreement with the North Carolina Department of Public Safety, payments may be aggregated by the Department until the total funds exceed \$50.00. Payments must be made payable to "Clerk, U.S. District Court" and transmitted to:

U.S. District Court
P.O. Box 25670
Raleigh, NC 27611
Attn: CRT Section

In the event the plaintiff is transferred to a different correctional facility, this financial responsibility must be transferred to the new correctional facility.

SO ORDERED, this 21st day of October 2016.



Robert T. Numbers, II
United States Magistrate Judge